

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD L. DUCKSWORTH,

Plaintiff,

No. CIV S-05-0669 LKK KJM P

vs.

TOM L. CAREY, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

The complaint states a cognizable Eighth Amendment claim for relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b) against defendant Tan. If the allegations of the complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of his Eighth Amendment claim against defendant Tan. With respect to the other claims and defendants identified in plaintiff's complaint, plaintiff's complaint fails to state a claim upon which relief

1 can be granted. Therefore, the court will order service of process only with respect to defendant
2 Tan.

3 In accordance with the above, IT IS HEREBY ORDERED that:

- 4 1. Plaintiff's request for leave to proceed in forma pauperis is granted.
5 2. Service is appropriate for defendant Tan.
6 3. The Clerk of the Court shall send plaintiff one USM-285 forms, one summons,
7 an instruction sheet and a copy of the complaint filed March 4, 2005.

8 5. Within thirty days from the date of this order, plaintiff shall complete the
9 attached Notice of Submission of Documents and submit the following documents to the court:

- 10 a. The completed Notice of Submission of Documents;
11 b. One completed summons;
12 c. One completed USM-285 form; and
13 d. Two copies of the endorsed complaint filed March 4, 2005.

14 6. Plaintiff need not attempt service on defendant Tan and need not request
15 waiver of service. Upon receipt of the above-described documents, the court will direct the
16 United States Marshal to serve the above-named defendant pursuant to Federal Rule of Civil
17 Procedure 4 without payment of costs.

18 DATED: April 5, 2007.

19 
20 U.S. MAGISTRATE JUDGE

21 1
22 duck0669.1(4.6.05)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD L. DUCKSWORTH

Plaintiff,

No. CIV S-05-0669 LKK KJM P

vs.

TOM L. CAREY, et atl.,

NOTICE OF SUBMISSION

Defendants.

OF DOCUMENTS

_____/

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

1 completed summons form

1 completed USM-285 form

2 copies of the March 4, 2005 Complaint

DATED:

Plaintiff